

# ANNUAL PERFORMANCE REPORT

## Part 1: Agency Summary

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**Agency:** Minnesota Department of Human Rights

**Mission Statement:**

The quality of life in Minnesota is directly related to the ability of all people to be free from discrimination. The physical, emotional, mental, social, and economic well-being of each person in Minnesota depends upon the provision of equal opportunity for all people. The economic and social health of our diverse society, in turn, depends upon the well-being of its people. Building upon Minnesota's progressive, non-partisan civil rights tradition, the Department of Human Rights works to foster a society which respects, supports, and is enriched by each member of our increasingly diverse population, and works toward a future in which our children will never experience discrimination.

A society that tolerates discrimination not only creates emotional pain and economic hardship for individuals and groups, but harms itself as well. The discriminatory denial of basic needs, such as housing, educational opportunities and employment, negatively affects the state's economic health. To remain economically competitive, Minnesota must foster the full economic participation of its diverse population. Morally and economically, Minnesota cannot afford to tolerate discrimination.

# ANNUAL PERFORMANCE REPORT

## Part 2: Program Information

**Agency:** Minnesota Department of Human Rights  
**Program:** Contract Compliance

**Program Purpose:** The purpose of this program is to achieve compliance with the Human Rights Act (M.S. 363) by reviewing state contractors to ensure that state agencies do business only with equal opportunity/affirmative action employers.

The primary goal of this program is to foster and encourage a climate free of historic discriminatory barriers to the employment of people of color, women and persons with disabilities.

State rules adopted in June, 1985, require the Department to review and approve affirmative action plans of businesses before they are certified to bid on state contracts or receive state funds. The Department also monitors the implementation of approved plans after certification and provides technical assistance to help businesses prepare or revise affirmative action plans to meet certification requirements and to correct problems in employment policies and practices.

**Performance Objectives and Measures:**

1. All affirmative action plans submitted by state contractors meet statutory and rule compliance requirements.

**Measure: a. Percentage of state contractors that have certified affirmative action plans.**

	<u>F.Y. 1990</u>	<u>F.Y. 1991</u>	<u>F.Y. 1992</u>	<u>F.Y. 1993</u>	<u>F.Y. 1994</u>	<u>Objectives</u>	<u>F.Y. 1995</u>	<u>F.Y. 2000</u>
Actual								
Prior Objectives								

- b. Percentage of deficient affirmative action plans corrected and approved.

	<u>F.Y. 1990</u>	<u>F.Y. 1991</u>	<u>F.Y. 1992</u>	<u>F.Y. 1993</u>	<u>F.Y. 1994</u>	<u>Objectives</u>	<u>F.Y. 1995</u>	<u>F.Y. 2000</u>
Actual								
Prior Objectives								

2. State contractors make good faith efforts to implement their affirmative action plans.

**Measure: a. Percentage of certified contractors evaluated for good faith implementation compliance.**

	<u>F.Y. 1990</u>	<u>F.Y. 1991</u>	<u>F.Y. 1992</u>	<u>F.Y. 1993</u>	<u>F.Y. 1994</u>	<u>Objectives</u>	<u>F.Y. 1995</u>	<u>F.Y. 2000</u>
Actual								
Prior Objectives								

- b. Percentage of certified contractors deficient in making good faith implementation.

	<u>F.Y. 1990</u>	<u>F.Y. 1991</u>	<u>F.Y. 1992</u>	<u>F.Y. 1993</u>	<u>F.Y. 1994</u>	<u>Objectives</u>	<u>F.Y. 1995</u>	<u>F.Y. 2000</u>
Actual								
Prior Objectives								

**Part 2: Program Information (Cont.)**

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c. Percentage of deficient certified contractors that take corrective action.

	<u>F.Y. 1990</u>	<u>F.Y. 1991</u>	<u>F.Y. 1992</u>	<u>F.Y. 1993</u>	<u>Objectives</u>		
					<u>F.Y. 1994</u>	<u>F.Y. 1995</u>	<u>F.Y. 2000</u>
Actual							
Prior Objectives							

d. Sanctions imposed for failure to take corrective action.

	<u>F.Y. 1990</u>	<u>F.Y. 1991</u>	<u>F.Y. 1992</u>	<u>F.Y. 1993</u>	<u>Objectives</u>		
					<u>F.Y. 1994</u>	<u>F.Y. 1995</u>	<u>F.Y. 2000</u>
Actual							
Prior Objectives							

# ANNUAL PERFORMANCE REPORT

## Part 2: Program Information

**Agency:** Minnesota Department of Human Rights  
**Program:** Case Processing

**Program Purpose:** The purpose of this program is to motivate organizations and individuals to comply with the Human Rights Act (M.S. 363) by vigorously enforcing the law through identifying potential violations, investigating discrimination complaints and engaging in conciliation and litigation.

The primary goal of the case processing program is to identify and remedy unlawful discrimination. The Human Rights Act (M.S. 363.12) states:

It is the public policy of this state to secure for persons in this state, freedom from discrimination;

- (1) In employment because of race, color, creed, religion, national origin, sex, marital status, disability, status with regard to public assistance, sexual orientation, and age;
- (2) In housing and real property because of race, color, creed, religion, national origin, sex, marital status, disability, status with regard to public assistance, sexual orientation, and familial status;
- (3) In public accommodations because of race, color, creed, religion, national origin, sex, sexual orientation, and disability;
- (4) In public services because of race, color, creed, religion, national origin, sex, marital status, disability, sexual orientation, and status with regard to public assistance; and
- (5) In education because of race, color, creed, religion, national origin, sex, marital status, disability, status with regard to public assistance, sexual orientation, and age.

The Human Rights Act and state rules require the Department to enforce public policy by investigating complaints of discrimination and securing remedies for discrimination.

**Performance Objectives and Measures:**

- 1. Identify potential statutory violations.

**Measure: a. Percentage of contacts resulting in charge drafts.**

	<u>F.Y. 1990</u>	<u>F.Y. 1991</u>	<u>F.Y. 1992</u>	<u>F.Y. 1993</u>	<u>Objectives</u>		
					<u>F.Y. 1994</u>	<u>F.Y. 1995</u>	<u>F.Y. 2000</u>
Actual							
Prior Objectives							

**b. Percentage of charge drafts filed and docketed.**

	<u>F.Y. 1990</u>	<u>F.Y. 1991</u>	<u>F.Y. 1992</u>	<u>F.Y. 1993</u>	<u>Objectives</u>		
					<u>F.Y. 1994</u>	<u>F.Y. 1995</u>	<u>F.Y. 2000</u>
Actual							
Prior Objectives							

**Part 2: Program Information (Cont.)**

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c. Test conducted.

	<u>F.Y. 1990</u>	<u>F.Y. 1991</u>	<u>F.Y. 1992</u>	<u>F.Y. 1993</u>	<u>Objectives</u>		
					<u>F.Y. 1994</u>	<u>F.Y. 1995</u>	<u>F.Y. 2000</u>
Actual							
Prior Objectives							

2. Investigations of potential violations are concluded in a timely manner.

Measure: a. Dispositions issued within one year.

	<u>F.Y. 1990</u>	<u>F.Y. 1991</u>	<u>F.Y. 1992</u>	<u>F.Y. 1993</u>	<u>Objectives</u>		
					<u>F.Y. 1994</u>	<u>F.Y. 1995</u>	<u>F.Y. 2000</u>
Actual							
Prior Objectives							

3. Investigative findings are supported by facts.

Measure: Findings upheld on internal appeal and court rulings.

	<u>F.Y. 1990</u>	<u>F.Y. 1991</u>	<u>F.Y. 1992</u>	<u>F.Y. 1993</u>	<u>Objectives</u>		
					<u>F.Y. 1994</u>	<u>F.Y. 1995</u>	<u>F.Y. 2000</u>
Actual							
Prior Objectives							

4. Sustained charges are positively resolved through settlement and litigation.

Measure: Percentage of pre-determined settlements and probable cause charges resolved through settlement and litigation.

	<u>F.Y. 1990</u>	<u>F.Y. 1991</u>	<u>F.Y. 1992</u>	<u>F.Y. 1993</u>	<u>Objectives</u>		
					<u>F.Y. 1994</u>	<u>F.Y. 1995</u>	<u>F.Y. 2000</u>
Actual							
Prior Objectives							

5. Increase proactive, non-monetary remedies in settlements of sustained charges.

Measure: Percentage of Department-negotiated settlements containing corrective action, training programs and preventative measures.

	<u>F.Y. 1990</u>	<u>F.Y. 1991</u>	<u>F.Y. 1992</u>	<u>F.Y. 1993</u>	<u>Objectives</u>		
					<u>F.Y. 1994</u>	<u>F.Y. 1995</u>	<u>F.Y. 2000</u>
Actual							
Prior Objectives							

# ANNUAL PERFORMANCE REPORT

## Part 2: Program Information

**Agency:** Minnesota Department of Human Rights

**Program:** Education and Outreach

**Program Purpose:** The purpose of this program is to provide education and information to the public about the Human Rights Act (M.S. 363) and discrimination issues, and to actively work with relevant public, private and community-based organizations to share information and cooperatively address and recognize emerging civil rights issues.

The primary goals of this program are:

(1) To act as a leader in the area of human rights by anticipating and identifying changes in the social environment that affect human and civil rights issues; and

(2) To promote an environment free of discrimination and prevent discriminatory situations from arising by taking proactive measures and devoting resources to human rights education.

**Performance Objectives and Measures:**

1. Expand public awareness and knowledge of human rights issues.

**Measure: a. Training and informational seminars/programs sponsored and participating.**

	<u>F.Y. 1990</u>	<u>F.Y. 1991</u>	<u>F.Y. 1992</u>	<u>F.Y. 1993</u>	<u>Objectives</u>	<u>F.Y. 1994</u>	<u>F.Y. 1995</u>	<u>F.Y. 2000</u>
Actual								
Prior Objectives								

- b. Publication of human rights issues and Department activities.

	<u>F.Y. 1990</u>	<u>F.Y. 1991</u>	<u>F.Y. 1992</u>	<u>F.Y. 1993</u>	<u>Objectives</u>	<u>F.Y. 1994</u>	<u>F.Y. 1995</u>	<u>F.Y. 2000</u>
Actual								
Prior Objectives								

2. Establish collaborative relationships with community groups to promote human rights in Minnesota.

**Measure: Liaisons to cultural/ethnic groups and human rights organizations.**

	<u>F.Y. 1990</u>	<u>F.Y. 1991</u>	<u>F.Y. 1992</u>	<u>F.Y. 1993</u>	<u>Objectives</u>	<u>F.Y. 1994</u>	<u>F.Y. 1995</u>	<u>F.Y. 2000</u>
Actual								
Prior Objectives								

**Part 2: Program Information (Cont.)**

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3. Identify and address human rights issues.

Measure: a. Patterns and trends in human rights issues identified and published.

	<u>F.Y. 1990</u>	<u>F.Y. 1991</u>	<u>F.Y. 1992</u>	<u>F.Y. 1993</u>	<u>Objectives</u>		
					<u>F.Y. 1994</u>	<u>F.Y. 1995</u>	<u>F.Y. 2000</u>
Actual							
Prior Objectives							

b. Program policies and activities adapted to effectively address identified issues.

	<u>F.Y. 1990</u>	<u>F.Y. 1991</u>	<u>F.Y. 1992</u>	<u>F.Y. 1993</u>	<u>Objectives</u>		
					<u>F.Y. 1994</u>	<u>F.Y. 1995</u>	<u>F.Y. 2000</u>
Actual							
Prior Objectives							

# ANNUAL PERFORMANCE REPORT

## Part 3: Substantiating the Performance Measures

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**Agency:** Minnesota Department of Human Rights  
**Program:** Contract Compliance

**Objective 1.** All affirmative action plans submitted by state contractors meet statutory and rule compliance requirements.

**Measure:** Percentage of state contractors that have certified affirmative action plans.

**Definition:** The percentage of businesses bidding on state contracts in excess of \$50,000 that have affirmative action plans certified by the Department.

**Rationale:** State law prohibits state agencies from accepting any bid or proposal for a contract in excess of \$50,000 with any business having more than 20 full-time employees unless the business has an affirmative action plan that (a) promotes employment opportunities for minorities, women and persons with disabilities; and (b) has been approved by the Commissioner of the Department of Human Rights.

The Department reviews affirmative action plans that are submitted by contractors and, if the plans meet statutory and rule requirements, issues a certificate of compliance. This outcome measure demonstrates whether state agencies only do business (in excess of \$50,000) with equal opportunity/affirmative action employers as required by law. If all businesses bidding on state contracts have certified affirmative action plans, then all state contracts will be awarded to equal opportunity/affirmative action employers.

**Data Source:** a. Department records of certified businesses.

b. For each state contract in excess of \$50,000, list of bidders that have more than 20 full-time employees. This data source does not exist and the Department has no authority to require state agencies letting such contracts to maintain and submit a bidders list.

**Factors Beyond Agency's Control That Affect Performance:** The Department has no control over the contracting procedures used by other state agencies. This means that another state agency could accept bids from contractors that do not have a certificate of compliance or even an affirmative action plan. The Department has no authority to intervene in the contracting process to prevent non-certified businesses from bidding on or being awarded state contracts.

**Measure:** Percentage of deficient affirmative action plans corrected and approved.

**Definition:** The total number of affirmative action plans submitted and reviewed in which the Department identified deficiencies compared to the number of deficient plans corrected and approved.

**Rationale:** In reviewing affirmative action plans that are submitted, the Department identifies any deficiencies in the plan and recommends to the business corrections that would bring the plan into compliance. This technical assistance role is critical to improving the equal opportunity efforts made by employers, and encompasses roughly 80% of the work performed by employees in the Compliance Unit. Tracking the rate at which businesses correct deficient affirmative action plans measures the efforts the Department makes to encouraging equal employment opportunities.

**Data Source:** Department records.

**Factors Beyond Agency's Control That Affect Performance:** The Department has no authority to require that businesses with deficient affirmative action plans make the recommended corrections or submit amended plans for further review and approval.



### Part 3: Substantiating the Performance Measures (Cont.)

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**Objective 2.** State contractors make good faith efforts to implement their affirmative action plans.

**Measure:** Percentage of certified contractors evaluated for good faith implementation compliance.

**Definition:** The total number of certified contractors compared to the number of businesses that have certified affirmative action plans that are evaluated and monitored by the Department to determine their efforts at implementing those plans.

**Rationale:** The Department is required to monitor whether businesses with certified affirmative action plans are making good faith efforts to implement the recruitment and hiring goals set forth in those plans. This measurement tracks the ability of the Department to monitor and evaluate implementation efforts, which indirectly motivates contractors to make these efforts.

**Data Source:** Department records.

**Factors Beyond Agency's Control That Affect Performance:** Budget driven staffing prevents the Department from engaging in meaningful monitoring of certified contractors. The Department also lacks a computer system that supports compliance activities. All tracking and monitoring is done manually, and there is no database from which the Compliance Unit can even retrieve a list of contractors that have an approved affirmative action plan.

**Measure:** Percentage of evaluated contractors deficient in making good faith efforts to implement affirmative action plans.

**Definition:** The percentage of contractors with certified affirmative action plans that have been evaluated by the Department and determined to be out of compliance with good faith implementation requirements.

**Rationale:** This outcome measure demonstrates the extent to which certified contractors follow through and actually work to implement the goals identified in their affirmative action plan.

**Data Source:**

**Factors Beyond Agency's Control That Affect Performance:**

**Measure:** Percentage of deficient contractors that take corrective action.

**Definition:** The percentage of certified contractors who are evaluated and determined to be out of compliance that take the corrective action recommended by the Department to bring them into compliance.

**Rationale:** This outcome measure demonstrates the effectiveness of the Department's monitoring efforts and the technical assistance provided by the Department in recommending corrective action to contractors that are not meeting requirements of good faith effort implementation of their affirmative action plans. For every contractor determined to be out of compliance in this area, the Department identifies the specific type of corrective action the contractor should make to bring it into compliance.

**Data Source:** Department records.

**Factors Beyond Agency's Control That Affect Performance:** The Department cannot require contractors to correct identified deficiencies except through the imposition of sanction, noted below.

**Measure:** Sanctions imposed for failure to take corrective action.

**Definition:** The number of times and types of sanctions imposed by the Department on contractors that fail to correct identified deficiencies in their efforts to implement certified affirmative action plans.

### **Part 3: Substantiating the Performance Measures (Cont.)**

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***Rationale:*** The Department has statutory and rule authority to suspend and revoke the certificates of compliance issued to contractors that fail to correct deficiencies in their efforts to implement their affirmative action plans. This measure demonstrates the extent to which the Department uses the authority, which affects the motivation of contractors to follow through to actually attempt to achieve the recruitment and hiring goals stated in their plans.

***Data Source:*** Department records.

***Factors Beyond Agency's Control That Affect Performance:*** None.

# ANNUAL PERFORMANCE REPORT

## Part 3: Substantiating the Performance Measures

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**Agency:** Minnesota Department of Human Rights  
**Program:** Case Processing

**Objective 1.** Identify potential statutory violations.

**Measure:** Percentage of contacts resulting in charge drafts.

**Definition:** The number of people contacting the Department for service compared to the number of jurisdictional charges the Department drafts.

**Rationale:** The Department is charged with investigating complaints of alleged unlawful discrimination, and is required by statute and rule to accept for filing any charge that meets minimal jurisdictional requirements. In order to focus its investigative efforts only on those charges of discrimination that meet jurisdictional prerequisites, the Department must rigorously screen each potential charge. The Department receives hundreds of calls and visits daily from individuals wishing to file charges of discrimination or seeking some other type of assistance that they believe the Department can provide. The Department's Intake Unit screens all of these contacts, sometimes referring people to other state agencies, community support groups or advocacy groups, and for all other contacts determines whether the individual has presented facts that make a potential jurisdictional charge of discrimination that the Department must investigate. The number of contacts that result in the Department drafting discrimination charges measures the effort of the intake function and relates directly to the Department's goal of identifying potential statutory violations.

**Data Source:** Manual records of Intake staff that show the number of contacts received, screened and the number of charge drafts written. The Department does not have a supportive computer system that would allow accurate tracking of this information and therefore must rely on manual records.

**Factors Beyond Agency's Control That Affect Performance:** None.

**Measure:** Percentage of charge drafts filed and docketed.

**Definition:** The number of charges drafted by the Department and sent to the potential charging party for notarized signature compared to the number of charges notarized, returned and filed by the charging party.

**Rationale:** The Department by rule cannot accept for filing any discrimination charge unless it has been notarized by the charging party and returned to the Department for filing and docketing. This measure is completely beyond the control of the Department, as noted below, but is important to take because it demonstrates whether potential charging parties fail to follow through on their claims. The number of returned and filed charges reflects the actual number of charges that move forward to case processing and investigation.

**Data Source:** Manual records of intake staff. The Department lacks a supportive computer system that would accurately track this information.

**Factors Beyond Agency's Control That Affect Performance:** The Department has no control over whether a potential charging party returns the drafted charge to the Department for filing and subsequent investigation.

**Measure:** Tests conducted.

**Definition:** The number of tests that the Department conducts or sponsors to determine whether facts exist which raise a potential violation of the Human Rights Act deserving of a discrimination charge.

### **Part 3: Substantiating the Performance Measures (Cont.)**

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**Rationale:** This measure demonstrates the extent to which the Department has identified potential violations of the Human Rights Act on its own initiative, as opposed to identifying potential violations when individuals contact the agency regarding alleged discrimination claims. The Department is charged by law with conducting tests and taking proactive measures to identify and address discrimination issues.

**Data Source:** Manual records of tests conducted and sponsored.

**Factors Beyond Agency's Control That Affect Performance:** The Department's ability to conduct and sponsor tests is dependent on its resources. Testing for potential discrimination often involves some monetary costs, and always requires staff time to establish the test, the control group, the testers and analyze the test results. In recent years the Department has devoted its resources to the screening and investigating of discrimination claims, responding to the steady growth rate of charges filed, and has not had the resources to engage in proactive testing.

**Objective 2.** Investigation of potential violations are concluded in a timely manner.

**Measure:** Dispositions issued within one year.

**Definition:** The number of discrimination charges that are closed within one year of filing compared to the total number of discrimination charges.

**Rationale:** The Department is required by law to complete its processing of discrimination charges within one year of the filing date. This measure demonstrates the Department's efforts to meet that goal and indirectly measures the manner in which the Department utilizes its resources devoted to case processing.

**Data Source:** Manual records of each case processing unit. The Department lacks a supportive computer system and program to accurately track and record the timeliness of case closures.

**Factors Beyond Agency's Control That Affect Performance:** The Department has no authority to refuse to accept charges of discrimination that meet the minimal jurisdictional prerequisites for filing but are obviously lacking in merit. The Department spends an enormous amount of time and energy processing charges that lack merit before they can be dismissed as not warranting further use of Department resources. The Department has developed several early dismissal policies designed to minimize the amount of processing time devoted to charges that lack merit or where the evidence is leading to a finding of no discrimination. The effect of these efficiency measures has not yet been determined. Given the sheer volume of charges filed each year, the limited staffing levels the Department can maintain with its legislated budget, the statutory mandate that the Department process all jurisdictional charges and the Department's desire to conduct thorough, quality investigations, there is a limit to the Department's ability to close all cases within one year of the date the charge was filed.

**Objective 3.** Investigative findings are supported by facts.

**Measure:** Findings upheld on internal appeal and court rulings.

**Definition:** The number of findings by the Department that are appealed internally or taken to court compared to the number of findings issued by the Department that are upheld on internal appeal and court order.

**Rationale:** Any finding or case closure issued by the Department can be appealed by law and rule through the Department's administrative appeal process. Findings of No Probable Cause and findings of Probable Cause can be appealed, as can cases closed because the Department has determined that they do not warrant further use of the Department's resources. A Department finding or closure can be reversed on administrative appeal if the appellant can show any number of quality-

### Part 3: Substantiating the Performance Measures (Cont.)

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related factors: that the determination was not based on facts, was based on an erroneous interpretation of the law, was the result of a biased or incomplete investigation, or because the appellant uncovered new facts not available during the investigation. This outcome measure demonstrates the quality of Department determinations and closures by tracking the rate at which appealed cases result in reversed findings.

For the same reason, tracking the rate at which Department findings are upheld by court order demonstrates the quality of Department investigations.

**Data Source:** Manual Department records reflecting the number and types of internal appeals received and the number and basis of reversals on internal appeal. The Department lacks a supportive computer data base that would accurately record and track this information.

The data source for court orders upholding Department decisions needs to be developed and systemized. The Department does receive copies of decisions by judges in cases which the Department has brought to court, but has never systematically recorded or tracked the rate at which Department findings are upheld by court order. The Department does not receive copies of judicial orders in cases withdrawn by the charging party and taken to court after the Department has reached its decision. There is a statutory provision that allows the Department to request the Department of Administration to require all state courts to provide the Department with copies of any decision relating to the Human Rights Act. The Department will request this of the Department of Administration. However, this requirement applies only to state courts and would not cover decisions by federal courts, nor would it necessarily identify which of those state decisions involved charges originally filed with the Department.

**Factors Beyond Agency's Control That Affect Performance:** None.

**Objective 4.** Discrimination charges are positively resolved through settlement and litigation.

**Measure:** Sustained charges are positively resolved through settlement and litigation.

**Definition:** The number of total charges filed compared to the number of charges resulting in pre-determination settlements, post-determination probable cause settlements or court order favoring the charging party.

**Rationale:** The Department is required by law to engage in conciliation and persuasion activities to resolve discrimination charges. Similarly, the Department attempts to conciliate settlements in charges that result in probable cause findings and, if conciliation fails, may pursue remedies through litigation. Additionally, charging parties often retain private attorneys who withdraw a charge after the Department issues a probable cause finding to pursue private litigation.

This measure demonstrates the Department's effort to positively resolve charges before a determination is issued through conciliation efforts, and measures the success rate of obtaining remedies for charges that result in probable cause findings.

**Data Source:** Manual Department records of pre-determination settlements and post-determination settlements conciliated by the agency. The Department needs to establish other data sources to compile information regarding the settlements reached through private efforts on withdrawn cases, the settlements reached through the efforts of the Attorney General's office after the Department refers a case for litigation, the remedies provided by private court action and the remedies provided in cases litigated by the Attorney General's office.

**Factors Beyond Agency's Control That Affect Performance:** The Department cannot force parties to a charge to settle. The agency's role in any settlement effort is one of conciliator, not mediator or arbitrator. Therefore, the success of obtaining positive remedies in sustained charges depends to a great extent on the willingness of the parties to negotiate reasonable settlement terms.

### **Part 3: Substantiating the Performance Measures (Cont.)**

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**Objective 5.** Increase proactive, non-monetary remedies in settlements of sustained charges.

**Measure:** Percentage of Department-negotiated settlements containing corrective action, training policies and other preventative measures.

**Definition:** The total number of charges resolved through Department conciliation efforts compared to the number of charges resolved through Department efforts that contain non-monetary remedies that are designed to educate the party charged with discrimination, correct discriminatory conduct and prevent future discrimination. Examples of this type of remedy include requiring an employer to provide training to employees on sexual harassment, developing company policies aimed at eliminating and addressing discrimination issues, requiring a landlord to adopt non-discriminatory tenant screening processes.

**Rationale:** The Department is responsible for encouraging compliance with the Human Rights Act through settlement terms and conditions that go beyond providing a specific remedy to the charging party. The Department recently began taking a more aggressive approach to seeking non-monetary remedies that are designed to not only correct discriminatory conduct, but to address and prevent potential violations of the law before they occur. For example, the Department recently conciliated a settlement in a Commissioner's Charge against a convenience store chain that contained aggressive requirements for the employer to hire an affirmative action officer, develop and implement non-discriminatory hiring and retention policies, train and educate all levels of employees on discrimination issues and submit regular information reports about employment practices to the Department for tracking and monitoring.

**Data Source:** Department records. The Department maintains a file of Department-conciliated settlement agreements and is in the process of developing a system of recording and tracking efforts in this area.

**Factors Beyond Agency's Control That Affect Performance:** As stated above, the Department cannot force parties to settle any particular charge, and does not have the authority to mandate the terms of any particular settlement agreement.

# ANNUAL PERFORMANCE REPORT

## Part 3: Substantiating the Performance Measures

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**Agency:** Minnesota Department of Human Rights  
**Program:** Education and Outreach

**Objective 1.** Expand public awareness and knowledge of the Human Rights Act and related human rights issues.

**Measure:** Training and informational seminars/programs sponsorship and participation.

**Definition:** The total number and type of external training and information activities sponsored by or participated in compared to the total number of requests received for these services.

**Rationale:** This measure demonstrates the extent to which the Department has met education needs identified by external sources and the amount of training generated by the Department on its own initiative. The Department is charged by law with conducting educational programs to eliminate discrimination and intergroup conflict. The Department is also required to develop and disseminate technical assistance to persons subject to the provisions of the Minnesota Human Rights Act.

**Data Source:** Manual records maintained by the training coordinator. The Department lacks a supportive computer system and program to accurately track and record the type and source of external training which is provided.

**Factors Beyond Agency's Control That Affect Performance:** Budget driven staffing limitations prevents the Department from meeting many of the external training requests that are received and limits the Department's ability to identify and provide the external training.

**Measure:** Publication of human rights issues and Department activities.

**Definition:** The total number and type of educational publications issued and targeted audience for each publication.

**Rationale:** This measure identifies the scope of Department activities in educating the public through press releases, brochures, posters and other publications. The Department is charged by law with conducting educational programs to eliminate discrimination and intergroup conflict.

**Data Source:** Manual records maintained by the communications coordinator. The Department lacks a supportive computer system to accurately track and record the number, type and audience for all Department publications.

**Factors Beyond Agency's Control That Affect Performance:** Budget driven staffing limitations restrict the development and distribution of educational publications.

**Objective 2.** Establish collaborative relationships with community groups to promote compliance with the Human Rights Act in Minnesota.

**Measure:** Liaisons to cultural/ethnic groups and human rights organizations.

**Definition:** This measure identifies the Department's formal and informal working relationships with cultural/ethnic groups and human rights organizations.

**Rationale:** Working relationships with human rights organizations and organizations representing protected class groups provides a basis for the Department to receive and provide information and engage in activities relevant to identifying emerging issues in human rights law enforcement and taking proactive measures to prevent discrimination.

**Data Source:** Manual records to be maintained by the Department which identify staff liaison assignments and duties, liaison reports of activities and information resulting from assignments.

### Part 3: Substantiating the Performance Measures (Cont.)

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**Factors Beyond Agency's Control That Affect Performance:** Budget driven staffing limitations restrict the Departments ability to establish and maintain on-going working relationships with many relevant groups and organizations.

**Objective 3.** Implement proactive measures to address and prevent discrimination.

**Measure:** Patterns and trends in human rights identified and published.

**Definition:** Charges filed with the Department are analyzed for distribution by area and basis covered under the Human Rights Act, geographic location and size and type of respondent.

**Rationale:** This measure shows trends and patterns in reported discrimination which are used by the Department in organizing case processing functions and identifying education and outreach service needs. The Department is required by law to conduct research and studies of discriminatory practices to aid in determining compliance with the Human Rights Act and to develop accurate data on the nature, extent and impact of discrimination.

**Data Source:** Manual records of each case processing unit. The Department lacks a supportive computer system and program to accurately track and record characteristics of charges.

**Factors Beyond Agency's Control That Affect Performance:** Use of manual records decreases the accuracy and timeliness of the data and subsequent reports. Use of staff time to manually compile and analyze the data limits the Department's ability to produce and utilize the reports given the existing restricted staff resources.

**Measure:** Programs, policies and activities are developed to address identified human rights issues.

**Definition:** Number and type of program policies and activities which have been developed in response to identified trends in human rights issues compared to issues and trends which have been identified.

**Rationale:** This measure demonstrates the Department's effort to take proactive measures to address and prevent discrimination in response to identified trends and issues.

**Data Source:** Data and reports from staff responsible for overseeing programs and activities, task force reports, written policies and procedures.

**Factors Beyond Agency's Control That Affect Performance:** Budget driven staffing limitations restrict the Department's ability to develop and maintain new programs and activities.



# ANNUAL PERFORMANCE REPORT

## Part 4: Improving Programs and the Reporting Process

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**Agency:** Minnesota Department of Human Rights

**Process Used:** The Department met with the Worker Participation Committee prior to developing this report. The Committee members provided input regarding what the Department's objectives and measurements should be, but worked under severe time constraints. This input process was hampered by the lack of training for Committee members. The Committee spent a great deal of time trying to define the terms used in this report and struggled to conform their ideas to the required format. The Committee would benefit from specific training that includes an explanation of the terms used in this report, how to tailor the agency programs to meet the reporting requirements, how to define objectives and measurements, how to reach a consensus and how to develop clear, precise measures that will actually reflect the success of agency programs. The Committee was positive and is eager to continue working toward developing a complete performance report, but was cognizant of its own lack of knowledge about what is expected and required of this report.

After the Worker Participation Committee provided its input into objectives and measurements, the Management Team of the agency struggled to create a draft report that met the expectations of the law. Again, it was painfully obvious that training needs to be provided, especially in the area of defining and rationalizing accurate measurements. The Department wishes to emphasize that this report is a very rough draft. The agency does not have most of the data required to measure the outcomes of any particular objective or program, and will continue working on defining objectives that can be measured.

**Ways to Improve Program Outcomes:** The most obvious method of improving the Department's program outcomes is through legislative recognition that there is a finite limit as to what the agency can accomplish with its budget restrictions. Virtually all of the agency work is demand-driven; the Department has little control over what comes in the doors that requires service. Some statutory and rule requirements should be amended. For example, the Department has tried unsuccessfully in the past to convince the legislature to give the agency some discretion at the intake stage to refuse to accept charges that meet minimal jurisdictional requirements but are clearly lacking in merit. To date, the legislature's response has been that the Department must take these charges and spend a minimal amount of time processing them. However, time delegated to frivolous charges directly affects the Department's ability to devote its resources to cases with substantive merit. Additionally, budget restrictions limit the number of staff and directly affects the Department's ability to achieve its objectives in all programs. For example, the Department has been cited by the Legislative Auditor's office for failing to monitor the good faith implementation efforts of certified contractors. Although the Department is in the process of developing a monitoring program, the ability to conduct meaningful reviews would take staff away from other statutorily-mandated work such as reviewing affirmative action plans and investigating discrimination charges in a timely manner.

Another change that would vastly improve program outcomes and enable the Department to collect accurate, reliable data is to provide the funding necessary to develop and maintain a database that supports agency work. For years the Department has sought funding to replace its current stand-alone computer system, which consists of three distinct, outdated and unworkable systems. It is clear from

## **ANNUAL PERFORMANCE REPORT**

### **Part 4: Improving Programs and the Reporting Process continued**

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the lack of any measurement information in this report that the Department does not have an information system that supports its work. The Department envisions that a reliable database which tracks and records information concerning Department activities would also assist in work that directly affects performance on various programs. Simply being able to retrieve a list of all contractors who have a certified affirmative action plan, for example, would be of immense help, and an obvious timesaver to staff, who could then devote time to other activities.